

Construction Corporation, ____ Kan. App. 2d ____, 18 P.3d 278 (2001), where the Court of Appeals reaffirmed that,

To be compensable, an injury "must arise out of a risk in some way peculiar to that in which he was engaged and not out of a hazard to which he would be equally exposed outside of the business." (Quoting Covert v. John Morrell & Co., 138 Kan. 592, 593-94, 27 P.2d 553 (1933)).

In this instance, the Appeals Board finds that the activity of arising from the couch, on which claimant was sitting while preparing paperwork, in order to prepare breakfast for her patients was an injury which arose out of her employment with respondent. The Board has held, on many occasions, persons arising from or working in seated positions and who are injured have suffered injuries arising out of their employment. See Barnett v. Ratheon Aircraft Company, WCAB Docket No. 211,829 (August 1996) (claimant arose from a stool and twisted, felt a pop in his back); Westover v. Flexel, Inc., WCAB Docket No. 205,057 (June 1997) (while arising out of a chair, claimant bent over to pick up a pencil and sneezed); Turley v. State of Kansas, WCAB Docket No. 247,457 (November 1999) (while sitting in a chair and pulling herself towards a desk, claimant herniated two discs in her back); Debernardin v. American Yearbook Company, Inc., WCAB Docket No. 225,835 (November 1997) (while claimant was getting up and down in a chair, he felt a pain in his low back).

In this instance, claimant was sitting on a couch working on paperwork when, realizing she had to prepare breakfast for her charges, she arose and twisted her ankle. The Appeals Board finds this activity was an action which arose out of her employment, as it was the necessity of feeding her charges which caused claimant to rise from the couch.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Pamela J. Fuller of February 23, 2001, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of June 2001.

BOARD MEMBER

c: Kerry McQueen, Liberal, KS
William L. Townsley, III, Wichita, KS
Pamela J. Fuller, Administrative Law Judge
Philip S. Harness, Director